

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DEANGELO CARROLL,

Petitioner,

v.

JAMES DZURENDA, et al.,

Respondents.

Case No. 2:20-cv-01691-GMN-NJK

ORDER

This is a habeas corpus action under 28 U.S.C. § 2254. The court directed petitioner, Deangelo Carroll, to pay the filing fee. ECF No. 3. Carroll has paid the fee. ECF No. 6. Currently before the court are the petition itself and Carroll's ex parte motion for appointment of counsel. The court has reviewed the petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts.

If the court had no previous experience with the facts underlying this case, then the court would require Carroll to file an amended petition pro se. Some grounds, or parts of grounds, have defects that can be corrected. Parts (a) through (e) of ground 1 ostensibly are claims that trial counsel and appellate counsel provided ineffective assistance in the litigation over a police custodial interrogation without the warnings required by Miranda v. Arizona, 384 U.S. 436 (1966). However, in those 7 pages are at least 18 confusing, prolix, and distinct claims of ineffective assistance of counsel, trial court error, appellate court error, and conspiracies among

1 court officers. Moreover, Carroll has interspersed parts of claims among parts of other claims in
 2 those 7 pages. Part (i) of ground 1 and part of ground 3 contain claims that trial counsel failed to
 3 object to prosecutorial misconduct, but Carroll does not allege what that misconduct was.

4 However, the court has some familiarity with the facts of this case. It arises from the
 5 murder of Timothy Hadland in 2005. Three other people have petitioned for habeas corpus relief
 6 from judgments of conviction arising out of the same murder: Kenneth Counts, Case No. 2:11-
 7 cv-01571-JAD-GWF, Luis Hidalgo, III, Case No. 3:16-cv-00618-MMD-WGC, and Luis Hidalgo,
 8 Jr., Case No. 3:18-cv-00153-MMD-CLB. Multiple trials occurred. Two other co-defendants,
 9 who have not petitioned for relief, pleaded guilty and testified for the prosecution. Carroll blames
 10 a seventh person, who apparently was not charged, with Hadland's death.

11 The issues of this case are complex, and Carroll would benefit from representation by
 12 counsel. Although Carroll paid the filing fee, his application to proceed in forma pauperis shows
 13 that he is unable to afford counsel. See 18 U.S.C. § 3006A(a)(2)(B). The court thus will appoint
 14 counsel. Following the court's practice, the court will provisionally appoint the Federal Public
 15 Defender. However, the court notes that the Federal Public Defender had conflicts of interest in
 16 the Hidalgos' cases.

17 IT THEREFORE IS ORDERED that the clerk of the court file the petition and the ex
 18 parte motion for appointment of counsel.

19 IT FURTHER IS ORDERED that petitioner's ex parte motion for appointment of counsel
 20 is **GRANTED**. The counsel appointed will represent the petitioner in all federal proceedings
 21 related to this matter, including any appeals or certiorari proceedings, unless allowed to withdraw.
 22 The provisional grant of the motion is subject to the petitioner paying the filing fee within 30 days
 23 of entry of this order.

24 IT FURTHER IS ORDERED that the Federal Public Defender will have 30 days from the
 25 date of entry of this order either to undertake representation of petitioner or to indicate to the
 26 court the office's inability to represent petitioner. If the Federal Public Defender is unable to
 27 represent petitioner, then the court will appoint alternate counsel, subject again to establishment
 28 of financial eligibility. The court will set a deadline for filing of an amended petition or a motion

1 seeking other relief after counsel has appeared. The court anticipates setting the deadline for 120
2 days from entry of the formal order of appointment. The court does not signify any implied
3 finding of tolling during any time period established or any extension granted. Petitioner always
4 remains responsible for calculating the limitation period of 28 U.S.C. § 2244(d)(1) and timely
5 presenting claims. The court makes no representation that the petition, any amendments to the
6 petition, and any claims in the petition or amendments are not subject to dismissal as untimely.
7 See Sossa v. Diaz, 729 F.3d 1225, 1235 (9th Cir. 2013).

8 IT FURTHER IS ORDERED that the motion for leave to file additional grounds is
9 **GRANTED.**

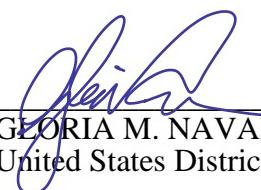
10 IT FURTHER IS ORDERED that the clerk add Aaron Ford, Attorney General for the
11 State of Nevada, as counsel for respondents.

12 IT FURTHER IS ORDERED that respondents' counsel must enter a notice of appearance
13 within twenty-one (21) days of entry of this order, but no further response will be required from
14 respondents until further order of the court.

15 IT FURTHER IS ORDERED that the clerk shall provide copies of this order and all prior
16 filings to both the Attorney General and the Federal Public Defender in a manner consistent with
17 the clerk's current practice, such as regeneration of notices of electronic filing.

18 IT FURTHER IS ORDERED that, notwithstanding Local Rule LR IC 2-2(g), paper copies
19 of any electronically filed exhibits need not be provided to chambers or to the staff attorney,
20 unless later directed by the court.

21 DATED: November 5, 2020

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23 GLORIA M. NAVARRO
24 United States District Judge

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